

STATE OF MAINE  
PUBLIC UTILITIES COMMISSION

ORDER

DECEMBER 15, 1998

NEW HARBOR-CHAMBERLAIN WATER ASSOCIATION,  
Request for Approval of Transfer of Assets  
From New Harbor Water Company to the  
New Harbor-Chamberlain Water Association  
(35-A M.R.S.A. § 1101)

DOCKET NO. 98-689

NEW HARBOR WATER COMPANY,  
Request to Abandon Service  
(35-A M.R.S.A. § 1104)

DOCKET NO. 98-139

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WELCH, Chairman; NUGENT and DIAMOND, Commissioners

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**I. SUMMARY OF DECISION**

We approve the sale of New Harbor Water Company (Company) assets to the New Harbor-Chamberlain Water Association (Association) under the terms of their agreement. We also allow the Company to discontinue water service in the villages of New Harbor and Chamberlain in the Town of Bristol and to dissolve. The Association will be a private, users' organization, not a regulated public utility.

**II. PROCEDURAL HISTORY**

On February 20, 1998, Paul D. Ring, owner of the New Harbor Water Company, filed a request for authorization to terminate service.<sup>1</sup> The Commission assigned Docket No. 98-139 to this request.

The filing contained a letter from Mr. Ring (and several supporters) to the utility's customers urging support for a community water system in New Harbor and Chamberlain and explaining that medical exigencies precluded his continued ownership of New Harbor Water Company. Also attached were

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<sup>1</sup> The filing letter and organizational documents were also variously signed by Louis Abbotoni, Frank Kingsley, Charles M. Begley, Robert Strauss, Betsy Bomann, and Patricia Cliney.

documents evidencing the organization of the Community Water System Foundation by members of the New Harbor-Chamberlain community. Underlying Mr. Ring's request to abandon service as a public utility was his desire to transfer the water system to a users' association that would continue providing water service to the area.<sup>2</sup>

During the intervening months, the Association engaged in negotiations with Mr. Ring for the purchase of the water system assets. On August 18, 1998, through its counsel, the Association filed a Request for Approval of Transfer of Assets from the New Harbor Water Company to the New Harbor-Chamberlain Water Association with an Asset Purchase Agreement, executed on August 11, 1998 by Paul D. Ring and members and officers of the New Harbor-Chamberlain Water Association.<sup>3</sup> The Commission assigned Docket No. 98-689 to this matter.

Staff issued data requests to the Association on September 4, 1998. The Association filed responses on October 28, 1998.

### III. DESCRIPTION OF AGREEMENT

The agreement establishes that the Association will purchase all the assets of the water utility, including real estate, inventory, equipment, leases, buildings, and customer deposits and contributions, for a total price of \$30,933.

The Association has:

1. filed Articles of Incorporation as a Domestic Non-profit Corporation with the Secretary of State;
2. adopted Bylaws;
3. filed for and obtained tax exempt status with the IRS;
4. entered into an Asset Purchase Agreement with Mr. Ring to purchase the assets for \$30,933; and
5. obtained a vote of the membership authorizing the purchase.

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<sup>2</sup> We denied a previous proposal to transfer the utility to a users' association due to insufficient organization in New Harbor Water Company, Proposed Acquisition and Sale of Assets to CWS Foundation, Docket No. 96-169, Order (Sept. 20, 1996).

<sup>3</sup> This was the new name given to the Community Water System Foundation.

The Association plans to contract with a local group for the operation and maintenance of the water system after the purchase is completed. Specifically, it has been exploring a possible contract with the Great Salt Bay Sanitary District. In addition, the Association has established a payment plan to raise revenues for the purchase of the utility assets and has determined that the rights to service will follow the properties served.

#### **IV. BACKGROUND**

During April 1998, the Commission became aware that the continued operation of the New Harbor Water Company was in jeopardy. The Company seasonally serves the villages of New Harbor and Chamberlain in the Town of Bristol. Mr. Ring, the owner of the Company, informed the customers that the water system would not provide service in the upcoming season.<sup>4</sup> Commission staff urged the customers to form an association to purchase and operate the water system.

On May 6, 1998, representatives of the Commission staff and the Department of Human Services met with a group of the Company's customers and representatives from the Maine Rural Water Association. After much discussion, the customers attending that meeting decided to form a users' association.

The group then contacted Mr. Ring, who agreed to allow them to operate the water system during the 1998 season while the Association was being formed and, at that time, indicated that a sale price, for a clean sale with no alternative dispute resolution (ADR) contingencies,<sup>5</sup> would be \$30,930. This was confirmed with Mr. Ring by Mr. Hammond of the Commission staff when Mr. Ring arrived at the meeting place as the meeting ended.

#### **V. CONCLUSION**

We conclude that the transfer of assets to the Association is in the best interest of the consumers of the New Harbor Water Company and that the Company should be allowed to abandon service as a public utility due to Mr. Ring's inability to continue to

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<sup>4</sup> Mr. Ring later allowed individuals associated with the Association to operate the system for the season, supervised by the Department of Health and Human Services, Drinking Water Division.

<sup>5</sup> Mr. Ring filed a letter on October 30, 1998 stating his desire that this matter be considered in conjunction with "PUC docket 98-140-B" (purportedly involving federal relocation assistance) and "the original PUC docket number 96-169, ADR 4/11/96." The Commission has previously informed Mr. Ring that these dockets are not open cases; therefore, there are no pending matters which must be considered in conjunction with this proposed transaction.

operate the utility. We therefore allow Mr. Ring to abandon service. We also approve the transfer of the New Harbor Water Company assets and its dissolution pursuant to 35-A M.R.S.A. § 708 to the extent necessary.<sup>6</sup>

We are persuaded that the Association has established an organization in which the users of this water system will control the terms and charges for usage. The water system will be operated without profit, at the behest of the limited group of users who are connected to it, and by a competent operator. All members are entitled to vote on leadership and issues affecting their use of the system. Accordingly, we find that the Association is not a public utility requiring the protections of regulation. See Kimball Lake Shores Association, Docket M #221, Order (Jan. 31, 1980).

Accordingly, we

O R D E R

1. That the New Harbor Water Company is authorized, pursuant to 35-A M.R.S.A. § 1101, to sell, transfer, and convey to the New Harbor-Chamberlain Water Association by an appropriate instrument or instruments of conveyance all, and not less than all, of their plants, properties, assets, franchises, rights, and privileges, including, without limitation, lands, buildings, waters, water rights, springs, wells, reservoirs, tanks, standpipes, mains, pumps, pipes, machinery, fixtures, hydrants, meters, services, tools, equipment, and appliances used or useful in supplying water for domestic, commercial, industrial, and municipal purposes, as described more fully in the Asset Purchase Agreement filed with the Commission on August 18, 1998;

2. That the New Harbor-Chamberlain Water Association is authorized to purchase and acquire all of the properties of the New Harbor Water Company described previously in Ordering Paragraph #1, and to assume all contracts relating to supplying water that are in effect on the date of the transfer between the water company and any person, firm, or corporation;

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<sup>6</sup> The Company is currently affiliated with the Waldoboro Water Company and New Harbor Water Company, Inc., a holding company, through Mr. Ring's ownership. The sale of the Waldoboro Water Company is currently on appeal before the Maine Supreme Judicial Court. Mr. Ring sold the Hartland Water Company in 1996. See Consumers Maine Water Company, Application for Approval of Transfer of Hartland Water Company, Docket No. 96-181, Order (June 5, 1996).

3. That upon the transfer of the water system assets by the New Harbor Water Company to the New Harbor-Chamberlain Water Association, the Company is authorized, pursuant to 35-A M.R.S.A. § 1104, to discontinue service in the Town of Bristol, Lincoln County, Maine;

4. That the transfer of the assets and the subsequent dissolution of the New Harbor Water Company is approved pursuant to 35-A M.R.S.A. § 708 to the extent necessary;

5. That the New Harbor Water Company shall file a copy of its final balance sheet with the Commission no later than April 1, 1999; and

6. That a copy of this Order shall be sent to all parties in Docket Nos. 98-139 and 98-689.

Dated at Augusta, Maine this 15th day of December 1998.

BY ORDER OF THE COMMISSION

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Dennis L. Keschl  
Administrative Director

COMMISSIONERS VOTING FOR: Nugent  
Diamond

COMMISSIONERS ABSENT: Welch